

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

**CELLULAR COMMUNICATIONS
EQUIPMENT LLC,**

Plaintiff,

v.

**SAMSUNG ELECTRONICS CO., LTD.,
et al.,**

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CASE NO. 6:14-CV-759-JRG-KNM

Defendants.

REPORT AND RECOMMENDATION

On January 5, 2015, Defendants filed a Joint Motion to Dismiss Plaintiff's First Amended Complaint for Failure to State a Claim (Doc. No. 37). Three months later, in Plaintiff Cellular Communications Equipment, LLC's (CCE) related case, *Cellular Communications Equipment, LLC v. HTC Corp.*, Case No. 6:13-CV-507 (the "HTC case"), the Court ordered CCE to amend its complaints in response to nearly identical motions to dismiss. 6:13CV507, Doc. No. 373. As to contributory infringement, the Court previously held the complaints in the HTC case did "not support a plausible inference that the accused devices or components thereof cannot be used for any other purpose than infringement." *Id.* at 10. The Court noted that the "complaints [did] not identify any components of the accused devices that are a material part of the invention." *Id.*

Although the Court had not yet addressed this Motion, CCE elected to amend its complaint "[i]n view of the Order in the Related Cases." Doc. No. 87 at 1. CCE filed a Second

Amended Complaint on June 26, 2015. Doc. No. 76. Defendants subsequently filed another Joint Motion to Dismiss Plaintiff Contributory Infringement Claims. Doc. No. 85.

In light of the amended complaint and new motion to dismiss and for the same reasons as the Order in the HTC case, the Court Recommends that the Motion (Doc. No. 37) be **GRANTED-IN-PART** and **DENIED-IN-PART**. Because CCE has already filed a Second Amended Complaint, no further action would be required by CCE as a result of an Order Adopting this Report and Recommendation.

Within fourteen days after receipt of the Magistrate Judge's report, any party may serve and file written objections to the findings and recommendations of the Magistrate Judge. 28 U.S.C. § 636(b).

A party's failure to file written objections to the findings, conclusions, and recommendations contained in this Report within fourteen days after service shall bar that party from *de novo* review by the District Judge of those findings, conclusions, and recommendations, and except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Assn.*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded by statute on other grounds*; 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Aug 3, 2015



K. NICOLE MITCHELL
UNITED STATES MAGISTRATE JUDGE